

HOW TO PREPARE AND SEND AN ANSWER/RESPONSE TO COMPLAINT/PETITION

What is an *Answer/Response to Complaint/Petition*?

- It is your written response to the claims in the Plaintiff/Petitioner's Complaint/Petition.
- The Plaintiff/Petitioner is the person or company suing you and is named first in the court papers.
- The Complaint/Petition is the document that the Plaintiff/Petitioner filed and served upon you with the summons. The Complaint/Petition explains the reasons the Plaintiff/Petitioner is suing you.
- Your *Answer/Response to Complaint/Petition* tells the court whether you agree or disagree with the Plaintiff/Petitioner's reasons for suing you.

Is there a deadline for filing an *Answer/Response to Complaint/Petition*?

Yes. The summons you received will tell you the deadline for filing your *Appearance* and *Answer/Response to Complaint/Petition*. For instructions on how to file your *Appearance* see also *How to File an Appearance* at <http://www.illinoiscourts.gov/Forms/approved/>.

- Your *Answer/Response to Complaint/Petition* is usually due at the same time as your *Appearance*.
- The summons might give you a specific time frame for filing your *Answer/Response to Complaint/Petition* – for example, within 7 or 30 days of when you received the Plaintiff/Petitioner's Complaint/Petition.
- If the lawsuit is for money and involves more than \$10,000 and up to \$50,000, the summons will tell you to appear in court at a specific date and time. You must file your *Answer/Response to Complaint/Petition* within 10 days of the date you appear in court.

Please be aware that if you have a legal reason to challenge the way the summons and complaint/petition were received by you (service of process), or a legal reason to have the complaint/petition dismissed, you need to file a *Motion* before you file your *Answer/Response to Complaint/Petition*. 735 ILCS 5/2-301; 735 ILCS 5/2-615. You should consult with an attorney about whether you have a legal reason to challenge how it was received or whether you have a legal reason to have the complaint/petition dismissed. The blank *Motion* form can be found at <http://www.illinoiscourts.gov/Forms/approved/>.

Does everyone who receives a summons and Complaint/Petition have to file an *Answer/Response to Complaint/Petition*?

There are two kinds of cases where you must appear in person but are not required to file a written *Answer/Response to Complaint/Petition*:

- The lawsuit is for money and involves \$10,000 or less (this is called a small claims case).
- An eviction lawsuit (also called Forcible Entry and Detainer).

Although you are not required to file an *Answer/Response to Complaint/Petition* before you go to court for these types of cases, the judge might order you to file an *Answer/Response to Complaint/Petition* after you go to court.

Where can I find the forms I need?

You can find the forms at:

<http://www.illinoiscourts.gov/Forms/approved/>

What costs will I need to pay to file my *Answer/Response to Complaint/Petition*?

- None.
- You may be required to file an *Appearance* at the same time you file your *Answer/Response to Complaint/Petition*. There is a fee for filing the *Appearance*. An *Appearance* form can be found at <http://www.illinoiscourts.gov/Forms/approved/>.
- Some courts do not require an *Appearance*. If your court does not require an appearance, you will be charged an appearance fee for filing your *Answer/Response to Complaint/Petition*.
- If you cannot afford to pay the filing fee, you can ask the court to file for free. Fill out the *Application for Waiver of Court Fees* to ask the court for a fee waiver. This is a separate set of forms you can find at: <http://www.illinoiscourts.gov/Forms/approved/>.

What happens if I am required to file an *Answer/Response to Complaint/Petition* but I don't?

The judge will find you in default and may rule in favor of the Plaintiff/Petitioner.

What if I think I may have Affirmative Defenses or Counterclaims?

An affirmative defense is a legal reason why you are not responsible to the Plaintiff/Petitioner. If you have affirmative defenses, you have to include them in your *Answer/Response to Complaint/Petition*. Examples of affirmative defenses include:

- that the Plaintiff/Petitioner waited longer than the law allows to file the Complaint/Petition OR
- that the claim was already brought and resolved by another, earlier judgment. [735 ILCS 5/2-613](#)

These are just a few examples of affirmative defenses.

Counterclaims are legal claims that you have against the Plaintiff/Petitioner regarding the issues in this case.

The counterclaim must be filed at the same time as your *Answer/Response to Complaint/Petition*. [735 ILCS 5/2-608](#) You may want to consult with a lawyer about whether you have affirmative defenses or counterclaims.

How do I get my forms notarized?

- To get your forms notarized, you must sign them in front of an official Illinois notary public.
- You can often find a notary public at your local bank, county courthouse, or town/city hall. Some currency exchanges, real estate offices, and law firms offer this service. You may also find an independent notary public by searching online or the phone book yellow pages.
- Call ahead to find out if the location has a notary public and if you need an appointment.
- There may be a small fee for getting your form notarized.
- You must bring your photo I.D. to the notary public. Your I.D. cannot be expired and must show your current address.

What do I do after I fill out the *Answer/Response to Complaint/Petition* form?

Step 1- File your form with the Circuit Clerk in the county where the court case is filed.

- Make copies of your form for yourself and each party in the case.
- File your form with the Circuit Clerk in person, by mail, or online if allowed.
- The Circuit Clerk will stamp your forms. This stamp is your proof that the forms were filed with the court.
- How to File In Person
 - Go to the courthouse in the county where your court case is filed.
 - Give the Circuit Clerk your original form and the copies to stamp.
 - The Circuit Clerk will keep the original form and give back your copies.
- How to File By Mail
 - Mail your original form and one copy to the Circuit Clerk to stamp.
 - Include the *Letter to the Circuit Clerk* found at: <http://www.illinoiscourts.gov/Forms/approved/>.
 - Include a self-addressed and stamped envelope for the Circuit Clerk to mail the copy to you.
- How to File Online
 - Check your local Circuit Clerk's website to see if online filing is an option for you at: <http://www.ilcourtclerks.org/illinois-court-clerks/>.
 - Follow the instructions for filing online provided by the Circuit Clerk.

Step 2 – Send a copy of your form to the other parties.

- After filing, you must send a copy of your form to each party in the case.
- If a party has a lawyer, send the copies to the lawyer.
- You may hand-deliver or mail your form to the other parties. If they have agreed, you may email your forms. The *Proof of Delivery* on your form must state the way you sent them.
- You must send your copies by 5:00 p.m. on the date you file your form even if you are filing by mail or online.
- Keep one copy of the form that was stamped by the Circuit Clerk for your own records.